

1 **SEC. ____ . ASSESSMENT OF USER FEE FOR COMMISSARY ACCESS BY PATRON**

2 **GROUPS AUTHORIZED ACCESS BY THE SECRETARY OF DEFENSE.**

3 (a) **AUTHORIZE COMMISSARY USER FEE.**—Chapter 54 of title 10, United States Code,
4 is amended by adding at the end the following new section:

5 **“§1065. Commissary user fee: Patron groups authorized commissary access by the**
6 **Secretary of Defense**

7 “(a) **AUTHORITY.**—The Secretary of Defense, in authorizing commissary privileges
8 and access for individual categories of patrons, may prescribe such regulations as may be
9 necessary to require collection of a five percent user fee on the sale price of items of
10 merchandise sold, in addition to the uniform surcharge authorized by section 2484(d) of this
11 title.

12 “(b) **FEE RESTRICTIONS.**—No fee may be assessed on any individual who is—

13 “(1) authorized commissary privileges by law;

14 “(2) a Medal of Honor recipient;

15 “(3) a civilian employee of the Department of Defense assigned to a location
16 outside the United States; or

17 “(4) an honorably discharged veteran of a uniformed service determined by
18 the Department of Veterans Affairs as having—

19 “(A) a service-connected disability rated at not less than 100 percent;

20 or

21 “(B) a 100 percent disability by reason of a determination of individual
22 unemployability.

1 “(c) SUPPLEMENTAL FUNDS.—Receipts collected under subsection (a) shall be
2 available for the expenses of operating the Defense Commissary Agency and the defense
3 commissary system.”.

4 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter
5 is amended by adding at the end the following new item:

6 “1065. Commissary user fee: Patron groups authorized commissary access by the Secretary of Defense.”.

7 (c) CONFORMING AMENDMENT.—Section 2483(c) of title 10, United States Code, is
8 amended by inserting “user fee collections pursuant to section 1065 of this title,” after
9 “tobacco products,”.

[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would allow the Secretary of Defense to charge a 5 percent user fee for additional categories of patrons authorized commissary access or privileges by the Secretary. These categories may include Department of Defense (DoD) appropriated fund (APF) and nonappropriated fund (NAF) civilians in the United States, DoD contractors, non-DoD federal employees overseas, and any new patron category authorized commissary access by the Secretary. This user fee would not be assessed to any patron category that is authorized commissary privileges by law (e.g., active duty service members, retirees, and reserve component members and their families), Medal of Honor recipients, DoD civilian employees assigned to locations outside the United States, and veterans of the uniformed services determined by the Department of Veterans Affairs as having a service-connected disability rated at not less than 100 percent or a 100 percent disability by reason of a determination of individual unemployability.

The purpose of this proposal is to resolve the long-standing problem of collecting reimbursement for commissary operating costs from secondary patron groups, such as DoD contractors overseas. DoD policy requires DoD contractors to reimburse the commissary system for the proportional costs of operating the system; however, current law prevents any funds collected from being used to offset commissary system costs. Currently contractor employees are allowed to shop in the commissary on the same basis as military personnel and their families without paying any additional fees. Under this proposal contractor personnel will be identified as they checkout at the register and assessed the additional fee which would be authorized by this legislation. In addition, other categories of personnel that are authorized commissary access, such as non-DoD Federal civilians assigned overseas, could be assessed the user fees to offset

the costs currently paid by DoD to provide discount groceries in remote locations. These fees would have a material impact on reducing commissary appropriations. Based on commissary identification card scanning data, approximately 2,700 households in these categories currently shop in commissaries overseas. These customers currently purchase approximately \$6.1 million annually; based on a study by the Boston Consulting Group, a 5 percent user fee could cause a 30 percent reduction (\$4.27 million) in Commissary sales, but the fee would generate approximately \$200,000 in user fees to offset appropriations.

This proposal also would remove a primary barrier to expanding commissary usage: the resulting increase in operating costs. Maintaining a robust customer base is necessary to ensure the continued viability of the defense commissary system, whose primary purpose is to provide an income benefit for active duty, reserve component, and retired military personnel and their families. The Department has consistently opposed requests to expand commissary access to large patron groups, such as DoD civilians assigned in the United States or disabled veterans, as it would infringe on the current military beneficiaries and increase commissary operating costs. However, an additional 5 percent user fee imposed on these groups would offset the cost of providing commissary access and generate additional revenue to offset other operating costs. As a result, this would provide a benefit to the entire commissary customer base and the Department.

The Department is currently completing a feasibility study on expanding commissary access to veterans with a 30 percent or higher service-connected disability as directed by Congress. The Department would also consider extending access to DoD civilian employees in the United States. These (and any other) additional patron categories that may be authorized commissary privileges or access in the future would pay the additional user fee and further offset already-programmed reductions in the appropriations. Any decision to expand commissary patronage would ensure that the new patron group would be assimilated into the existing facilities without adversely affecting the facilities themselves or current patrons.

Budget Implications: The table below details resource requirements and potential reduction to appropriated funds associated with this proposal. This reduction will be offset from non-federal sources in the form of user fees. The resources reflected in the table below are funded within the fiscal year (FY) 2018 President’s Budget.

RESOURCE REQUIREMENTS (\$MILLIONS)									
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	Appropriation From	Budget Activity	Dash-1 Line Item	Program Element
DeCA	(0.2)	(0.2)	(0.2)	(0.2)	(0.2)	97X4930	WCF - Commissary Operations		22.21
Total	(0.2)	(0.2)	(0.2)	(0.2)	(0.2)	--	-	--	--

Changes to Existing Law: This proposal would add a new section to chapter 54 of title 10, United States Code, shown in full in the legislative language above. This proposal also would make the following changes to section 2483 of title 10:

§2483. Commissary stores: use of appropriated funds to cover operating expenses

(a) OPERATION OF AGENCY AND SYSTEM.—Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) OPERATING EXPENSES OF COMMISSARY STORES.—Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

- (1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.
- (2) Utilities.
- (3) Communications.
- (4) Operating supplies and services.
- (5) Second destination transportation costs within or outside the United States.
- (6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, user fee collections pursuant to section 1065 of this title, and other amounts received as reimbursement for other support activities provided by commissary activities. Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title.